

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROBIN MARKO-HARRIS,

Plaintiff,

v.

JAMES HARRISON,

Defendant.

---

Case No. 2:09-cv-13952

HONORABLE STEPHEN J. MURPHY, III

**ORDER ADOPTING AND AFFIRMING REPORT AND RECOMMENDATION (docket entry 6) AND GRANTING DEFENDANT'S MOTION TO DISMISS (docket entry 2)**

This is an action brought pro se by the plaintiff, Robin Marko-Harris, against James Harrison, who is the president of Local 223 of the Utility Workers Union of America (UWUA), claiming that Harrison breached his duty of fair representation to the plaintiff while Harrison was acting in his official capacity as president of Local 223. Before the Court is defendant's motion to dismiss, filed on October 26, 2009, and the Report and Recommendation of Magistrate Judge Scheer, filed on December 14, 2009.

This action was brought in small claims court and removed to this Court by the defendant on October 6, 2009, asserting federal question jurisdiction under the Labor Management Relations Act, 29 U.S.C. § 185. Defendant filed his motion to dismiss in lieu of answering on October 26, 2009. On December 7, 2009, the matter was referred for all pretrial procedures to United States Magistrate Judge Donald A. Scheer, including a referral for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). On December 14, 2009, Magistrate Judge Scheer issued a report and recommendation recommending that the Court grant defendant's motion to dismiss on the grounds that the complaint fails to state a claim upon which relief can be granted. The

Magistrate Judge also notified the parties that any objections must be filed within fourteen days of service. No party has filed objections to the report and recommendations.

The Court's standard of review for a magistrate judge's report and recommendation depends upon whether a party files objections. If a party does not object to the report and recommendation, the Court does not need to conduct a review by any standard. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Because neither party filed timely objections to Magistrate Judge Scheer's report and recommendation, see 28 U.S.C. § 636(B)(1)(c); Fed. R. Civ. P. 6(e), this Court need not and will not conduct a review.

**ACCORDINGLY, IT IS HEREBY ORDERED** that the Report and Recommendation [docket entry 6] is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

**IT IS FURTHER ORDERED** that defendant's motion to dismiss [docket entry 2] is **GRANTED**.

s/Stephen J. Murphy, III  
STEPHEN J. MURPHY, III  
United States District Judge

Dated: February 5, 2010

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 5, 2010, by electronic and/or ordinary mail.

Alissa Greer  
Case Manager